

plan is considered to have been made on the date the election form is received by the M+C organization.

(e) *Handling of election forms.* The M+C organization must have an effective system for receiving, controlling, and processing election forms. The system must meet the following conditions and requirements:

(1) Each election form is dated as of the day it is received.

(2) Election forms are processed in chronological order, by date of receipt.

(3) The M+C organization gives the beneficiary prompt written notice of acceptance or denial in a format specified by HCFA.

(4) In a format specified by HCFA, a notice of acceptance—

(i) Informs the beneficiary of the date on which enrollment will be effective under § 422.68; and

(ii) If the M+C plan is enrolled to capacity, explains the procedures that will be followed when vacancies occur.

(5) A notice of denial explains the reasons for denial in a format specified by HCFA.

(6) Within 30 days from receipt of the election form (or from the date a vacancy occurs for an individual who was accepted for future enrollment), the M+C organization transmits the information necessary for HCFA to add the beneficiary to its records as an enrollee of the M+C organization.

(f) *Exception for employer group health plans.* (1) In cases in which an M+C organization has both a Medicare contract and a contract with an employer group health plan, and in which the M+C organization arranges for the employer to process election forms for Medicare-entitled group members who wish to enroll under the Medicare contract, the effective date of the election may be up to, but may not exceed, 90 days before the date the M+C organization received the election from the employer. Any adjustment in effective date must conform with adjustments in payment, as described under § 422.250(b).

(2) In order to obtain the effective date described in paragraph (f)(1) of this section, the beneficiary must certify that, at the time of enrollment in the M+C organization, he or she re-

ceived the disclosure statement specified in § 422.111.

(3) The M+C organization must submit the enrollment within 30 days from receipt of the election form from the employer.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998; 63 FR 54526, Oct. 9, 1998; 64 FR 7980, Feb. 17, 1999]

#### **§ 422.62 Election of coverage under an M+C plan.**

(a) *General: Coverage election periods—*

(1) *Initial coverage election period.* The initial coverage election period is the period during which a new M+C eligible individual may make an initial election. This period begins 3 months prior to the month the individual is first entitled to both Part A and Part B and ends the last day of the month preceding the month of entitlement.

(2) *Annual election period.* (i) Beginning in 1999, the month of November is the annual election period for the following calendar year. Organizations offering M+C plans in January 1999 must open enrollment to Medicare beneficiaries in November 1998.

(ii) During the annual election period, an individual eligible to enroll in an M+C plan may change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(3) *Open enrollment and disenrollment opportunities through 2001.* From 1998 through 2001, the number of elections or changes that an M+C eligible individual may make is not limited (except as provided for in paragraph (d) of this section for M+C MSA plans). Subject to the M+C plan being open to enrollees as provide under § 422.60(a)(2), an individual eligible to elect an M+C plan may change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan.

(4) *Open enrollment and disenrollment during 2002.* (i) Except as provided in paragraphs (a)(4)(ii) and (a)(4)(iii) of this section, an individual who is eligible to elect an M+C plan in 2002 may elect an M+C plan or change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan,

but only once during the first 6 months of the year.

(ii) *Newly eligible M+C individual.* An individual who becomes an M+C eligible individual during 2002 may elect an M+C plan or original Medicare and then change his or her election once during the period that begins the month the individual is entitled to both Part A and Part B and ends on the last day of the 6th month of such entitlement, or on December 31, whichever is earlier. The individual can change the election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan during this period.

(iii) The limitation to one election or change in paragraphs (a)(4)(i) and (a)(4)(ii) of this section does not apply to elections or changes made during the annual election period specified in (a)(2) of this section or during a special enrollment period specified in paragraph (b) of this section.

(5) *Open enrollment and disenrollment beginning in 2003.* (i) For 2003 and subsequent years, except as provided in paragraphs (a)(5)(ii) and (a)(5)(iii) of this section, an individual who is eligible to elect an M+C plan may elect an M+C plan or change his or her election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan, but only once during the first 3 months of the year.

(ii) *Newly eligible M+C individual.* An individual who becomes an M+C eligible individual during 2003 or later may elect an M+C plan or original Medicare and then change his or her election once during the period that begins the month the individual is entitled to both Part A and Part B and ends on the last day of the 3rd month of such entitlement, or on December 31, whichever is earlier. The individual can change the election from an M+C plan to original Medicare or to a different M+C plan, or from original Medicare to an M+C plan during this period.

(iii) The limitation to one election or change in paragraphs (a)(5)(i) and (a)(5)(ii) of this section does not apply to elections or changes made during the annual election period specified in paragraph (a)(2) of this section or dur-

ing a special election period specified in paragraph (b) of this section.

(b) *Special election periods.* Effective as of January 1, 1999 for M+C MSA plans, and as of January 1, 2002, for all other types of M+C plans, an individual may at any time (that is, not limited to the annual election period) discontinue the election of an M+C plan offered by an M+C organization and change his or her election, in the form and manner specified by HCFA, from an M+C plan to original Medicare or to a different M+C plan under any of the following circumstances:

(1) HCFA has terminated the organization's contract for that plan or the organization has terminated or discontinued offering the plan in the service area or continuation area in which the individual resides.

(2) The individual is not eligible to remain enrolled in the plan because of a change in his or her place of residence to a location out of the service area or continuation area or other change in circumstances as determined by HCFA but not including terminations resulting from a failure to make timely payment of an M+C monthly or supplemental beneficiary premium, or from disruptive behavior.

(3) The individual demonstrates to HCFA, in accordance with guidelines issued by HCFA, that—

(i) The organization offering the plan substantially violated a material provision of its contract under this part in relation to the individual, including, but not limited to the following:

(A) Failure to provide the beneficiary on a timely basis medically necessary services for which benefits are available under the plan.

(B) Failure to provide medical services in accordance with applicable quality standards; or

(ii) The organization (or its agent, representative, or plan provider) materially misrepresented the plan's provisions in marketing the plan to the individual.

(4) The individual meets such other exceptional conditions as HCFA may provide.

(c) *Special election period for individual age 65.* Effective January 1, 2002, an M+C eligible individual who elects an M+C plan during the initial enrollment

period, as defined under section 1837(d) of the Act, that surrounds his or her 65th birthday (this period begins 3 months before and ends 3 months after the month of the individual's 65th birthday) may discontinue the election of that plan and elect coverage under original Medicare at any time during the 12-month period that begins on the effective date of enrollment in the M+C plan.

(d) *Special rules for M+C MSA plans—*

(1) *Enrollment.* An individual may enroll in an M+C MSA plan only during an initial or annual election period described in paragraphs (a)(1) and (a)(2) of this section or during November 1998.

(2) *Disenrollment.* (i) Except as provided in paragraph (d)(2)(ii) of this section, an individual may disenroll from an M+C MSA plan only during—

(A) November 1998;

(B) An annual election period; or

(C) The special election period described in paragraph (b) of this section.

(ii) *Exception.* An individual who elects an M+C MSA plan during an annual election period and has never before elected an M+C MSA plan may revoke that election, no later than December 15 of that same year, by submitting to the organization that offers the M+C MSA plan a signed and dated request in the form and manner prescribed by HCFA or by filing the appropriate disenrollment form through other mechanisms as determined by HCFA.

[63 FR 35071, June 26, 1998; 63 FR 52612, Oct. 1, 1998]

#### § 422.64 Information about the M+C program.

(a) *Source of information.* Each M+C organization must provide, on an annual basis and in a format and using standard terminology that may be specified by HCFA, the information necessary to enable HCFA to provide to current and potential beneficiaries the information they need to make informed decisions with respect to the available choices for Medicare coverage.

(b) *Timing and recipients of the information.* HCFA mails a notice containing the information described in paragraph (c) of this section—

(1) At least 15 days before each annual election period, to each individual eligible to elect an M+C plan; and

(2) To the extent practicable, not later than 30 days before his or her initial coverage election period to each individual who will become eligible to elect an M+C plan.

(c) *Content of notice—*(1) *Benefits under original Medicare.* (i) Covered services.

(ii) Beneficiary cost sharing, such as deductibles, coinsurance, and copayment amounts.

(iii) Any beneficiary liability for balance billing.

(2) *Enrollment procedures.* Information and instructions on how to exercise election options under this subpart.

(3) *Rights.* A general description of procedural rights (including grievance and appeals procedures) under original Medicare and the M+C program and the right to be protected against discrimination based on factors related to health status in accordance with § 422.110.

(4) *Medigap and Medicare Select.* A general description of the benefits, enrollment rights, and requirements applicable to Medicare supplemental policies under section 1882 of the Act, and provisions relating to Medicare Select policies under section 1882(t) of the Act.

(5) *Potential for contract termination.* The fact that an M+C organization may terminate or refuse to renew its contract, or reduce the service area included in its contract, and the effect that any of those actions may have on individuals enrolled in that organization's M+C plan.

(6) *Comparative information.* A list of M+C plans that are or will be available to residents of the service area in the following calendar year, and, for each available plan, information on the aspects described in paragraphs (c)(7) through (c)(11) of this section, presented in a manner that facilitates comparison among the plans.

(7) *Benefits.* (i) Covered services beyond those provided under original Medicare.

(ii) Any beneficiary cost sharing.

(iii) Any maximum limitations on out-of-pocket expenses.